

Chapter Ins 3

CASUALTY INSURANCE

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Ins 3.01 Accumulation benefit riders attached to health and accident policies. Except where such rider is used only on a policy replacing the company's own policy, and so recites, no rider providing for accumulations of benefits will be approved for use upon any policy of health and accident insurance, whether it is proposed to issue such rider with or without an additional premium. Such rider operates as an aid to twisting the policies of another company in such manner as to make its use a direct encouragement of this practice.

Ins 3.02 Automobile fleets, vehicles not included in. Individually owned motor vehicles cannot be included or covered by fleet rates. The determining factor for inclusion under fleet coverage must be ownership and not management or use.

Ins 3.04 Dividends not deducted from premiums in computing loss reserves. Premiums returned to policyholders as dividends may

not be deducted from the earned premiums in computing loss reserves under s. 623.04, Stats.

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 3.07 Rules in chapter Ins 4, fire and allied lines insurance, applicable to casualty insurance. The following captioned rules under chapter Ins 4, FIRE AND ALLIED LINES INSURANCE, are applicable to casualty insurance:

- (1) Nonassessable policies of mutual companies.
- (2) Policy, inspection and similar fees.

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 3.09 Mortgage guaranty insurance. (1) **PURPOSE.** This rule implements and interprets, including but not limited to, section Ins 6.75 (2) (i) and s. 611.02, 611.24, 618.01, 618.21, 620.02 and 623.04, Stats., for the purpose of establishing minimum requirements for the transaction of mortgage guaranty insurance.

(2) **SCOPE.** This rule shall apply to the underwriting, investment, marketing, rating, accounting and reserving activities of insurers which write the type of insurance authorized by section Ins 6.75 (2) (i).

(3) **DEFINITIONS.** (a) Mortgage guaranty insurance is that kind of insurance authorized by section Ins 6.75 (2) (i), and includes the guarantee of the payment of rentals under leases of real estate in which the lease extends for 3 years or longer.

(b) As used in this rule, "person" means any individual, corporation, association, partnership or any other legal entity.

(4) **DISCRIMINATION.** No mortgage guaranty insurer may discriminate in the issuance or extension of mortgage guaranty insurance on the basis of the applicant's sex, marital status, race, color, creed or national origin.

(5) **LIMITATION OF TOTAL LIABILITY ASSUMED.** A mortgage guaranty insurer shall not at any time have outstanding a total liability under its aggregate insurance policies, computed on the basis of its election to limit coverage and net of reinsurance assumed and of reinsurance ceded to an insurer authorized to transact such reinsurance in this state, exceeding 25 times the sum of its contingency reserve established under subsection (14) and its surplus as regards policyholders.

(6) **LIMITATION ON INVESTMENT.** A mortgage guaranty insurer shall not invest in notes or other evidences of indebtedness secured by mortgage or other lien upon real property. This section shall not apply to obligations secured by real property, or contracts for the sale of real property, which obligations or contracts of sale are acquired in the course of the good faith settlement of claims under policies of insurance issued by the mortgage guaranty insurer, or in the good faith disposition of real property so acquired.

(7) **LIMITATION ON ASSUMPTION OF RISKS.** A mortgage guaranty insurer shall not insure loans secured by properties in a single or contiguous housing or commercial tract in excess of 10% of the insurer's admitted assets. A mortgage guaranty insurer shall not insure a loan secured by a

single risk in excess of 10% of the insurer's admitted assets. In determining the amount of such risk or risks, the insurer's liability shall be computed on the basis of its election to limit coverage and net of reinsurance ceded to an insurer authorized to transact such reinsurance in this state. "Contiguous" for the purpose of this subsection means not separated by more than one-half mile.

(8) REINSURANCE. A mortgage guaranty insurer may, by contract, reinsure any insurance it transacts in any assuming insurer authorized to transact mortgage guaranty insurance in this state, except it shall not enter into reinsurance arrangements designed to circumvent the compensation control provisions of subsection (15) or the contingency, reserve requirement of subsection (14). It is the intent of this rule that the unearned premium reserve required by subsection (13) and the contingency reserve required by subsection (14) shall be established and maintained in appropriate proportions in relation to risk retained by the original insurer and by the assuming reinsurer so that the total reserves established shall not be less than the reserve required by subsections (13) and (14).

(9) ADVERTISING. No mortgage guaranty insurer or any agent or representative of a mortgage guaranty insurer shall prepare or distribute or assist in preparing or distributing any brochure, pamphlet, report or any form of advertising to the effect that the real estate investments of any financial institution are "insured investments", unless the brochure, pamphlet, report or advertising clearly states that the loans are insured by insurers possessing a certificate of authority to transact mortgage guaranty insurance in this state or are insured by an agency of the federal government, as the case may be.

(10) POLICY FORMS. All policy forms and endorsements shall be filed with and be subject to approval of the commissioner. With respect to owner-occupied, single-family dwellings, the mortgage guaranty insurance policy shall provide that the borrower shall not be liable to the insurance company for any deficiency arising from a foreclosure sale.

(11) PREMIUM. (a) The total consideration charged for mortgage guaranty insurance policies, including policy and other fees or similar charges, shall be considered premium and must be stated in the policy and shall be subject to the reserve requirements of subsections (13) and (14).

(b) The rate making formula for mortgage guaranty insurance shall contain a factor or loading sufficient to produce the amount required for the contingency reserve prescribed by subsection (14).

(12) REPORTING. (a) The financial condition and operations of a mortgage guaranty insurer shall be reported annually on the fire and casualty annual statement form specified by Wis. Adm. Code section Ins 7.01 (5) (a).

(b) The total contingency reserve required by subsection (14) shall be reported on line 1, page 3 or on line 22, page 3 of the annual statement. If the contingency reserve is reported on line 1, page 3, appropriate entries must be made on Exhibit 3-A, page 9 of the annual statement. The change in contingency reserve for the year shall be reported on line 5, page 4 of the annual statement as a deduction from underwriting income. The development of the contingency reserve shall be shown in Schedule K of the annual statement as follows:

1. Net premiums earned on policies during the 120 months prior to the annual statement date shall be shown on line 3 (a) of Schedule K;

2. Incurred losses in excess of 35% of earned premiums of any calendar year included in line 3 (a) shall be reported in line 3 (c) of Schedule K; and

3. Appropriate entries shall be made in lines 3 (b), 3 (d), 3 (e), 3 (f), (4) and (5) of Schedule K.

(c) A mortgage guaranty insurer shall compute and maintain adequate case basis and other loss reserves to be reported in Underwriting and Investment Exhibit Part 3-A—Unpaid Losses and Loss Adjustment Expenses, page 9 of the annual statement form. The method used to determine the loss reserve shall accurately reflect loss frequency and loss severity and shall include components for claims reported and unpaid, and for claims incurred but not reported, including estimated losses on:

1. Insured loans which have resulted in the conveyance of property which remains unsold;

2. Insured loans in the process of foreclosure;

3. Insured loans in default for four months or for any lesser period which is defined as default for such purposes in the policy provisions; and

4. Insured leases in default for four months or for any lesser period which is defined as default for such purposes in the policy provisions.

(d) Expenses shall be recorded and reported in accordance with Wis. Adm. Code sections Ins 6.30 and Ins 6.31.

(e) Amounts released from the contingency reserve pursuant to subsection (14) shall be treated on a first-in-first-out basis.

(13) **UNEARNED PREMIUM RESERVE.** (a) A mortgage guaranty insurer shall compute and maintain an unearned premium reserve on an annual or on a monthly pro rata basis on all unexpired coverage, except that in the case of premiums paid in advance for any coverage issued with a term shown in the schedule below the annual unearned premium factor specified shall apply:

Contract Year Current at Val- uation Date	Unearned Premium Factor to be Applied to Premiums in Force on Valuation Date					
	4 Year Coverage Period	5 Year Coverage Period	6 Year Coverage Period	7 Year Coverage Period	8 Year Coverage Period	9 Year Coverage Period
1	95.7%	96.5%	97.0%	97.3%	97.5%	97.7%
2	76.4%	81.0%	83.7%	85.4%	86.5%	87.3%
3	45.2%	56.0%	62.2%	66.2%	68.8%	70.4%
4	14.5%	31.3%	41.1%	47.4%	51.3%	53.8%
5		9.8%	22.7%	31.0%	36.2%	39.4%
6			7.1%	17.1%	23.3%	27.2%
7				5.4%	12.5%	16.9%
8					3.8%	8.6%
9						2.5%
10						
11						
12						
13						
14						
15						

COMMISSIONER OF INSURANCE

Contract Year Current at Valuation Date	10 Year Coverage Period	11 Year Coverage Period	12 Year Coverage Period	13 Year Coverage Period	14 Year Coverage Period	15 Year Coverage Period
1	97.7%	97.8%	97.8%	97.8%	97.8%	97.8%
2	87.6%	87.9%	88.1%	88.1%	88.2%	88.2%
3	71.3%	71.9%	72.3%	72.5%	72.6%	72.6%
4	55.3%	56.1%	56.7%	57.1%	57.2%	57.3%
5	41.3%	42.5%	43.2%	43.7%	43.9%	44.0%
6	29.5%	30.9%	31.8%	32.3%	32.7%	32.8%
7	19.6%	21.2%	22.1%	22.8%	23.2%	23.3%
8	11.6%	13.3%	14.4%	15.1%	15.5%	15.7%
9	5.6%	7.5%	8.6%	9.3%	9.9%	10.1%
10	1.6%	3.4%	4.6%	5.4%	6.0%	6.2%
11		0.9%	2.1%	2.9%	3.5%	3.7%
12			0.6%	1.8%	1.9%	2.1%
13				0.4%	0.9%	1.1%
14					0.3%	0.5%
15						0.1%

These unearned premium factors are calculated on the assumption that on the average a contract is written in the middle of the calendar year and that these factors are applied annually to groups of contracts segregated by term and expiration year. These factors include one-half of the earned premium applicable to the contract year current at the valuation date.

(b) On an annual premium plan that portion of the first year premium, excluding policy and other fees or similar charges, which exceeds twice the subsequent renewal premium rate, shall be considered a deferred risk charge and amortized in accordance with factors specified for a 10 year term coverage in paragraph (a) or in accordance with factors specified for a lesser term coverage in paragraph (a) as approved by the commissioner.

(c) On premiums paid in advance for coverage periods in excess of 15 years, the unearned portion of the premium during the first 15 years of coverage shall be the premium collected minus an amount equal to the premium that would have been earned had the applicable premium for 15 years' coverage been received. The premium remaining after 15 years shall be released from the unearned premium reserve pro rata over the remaining term of coverage.

(14) CONTINGENCY RESERVE. (a) A contingency loss reserve shall be established and maintained for the purpose of protecting insureds against the effect of adverse economic cycles and to permit mortgage guaranty insurers to comply with section 832 (e) of the Internal Revenue Code of 1954, as amended.

(b) Subject to subsection (8) relating to reinsurance there shall be an annual contribution to the contingency reserve which in the aggregate shall be the greater of:

1. 50% of the earned premium reported on line 1, page 4 of the fire and casualty annual statement; or

2. The sum of:

a. \$1.25 per \$1,000 of face amount of mortgage guaranty insurance in force at year end on residential buildings designed for occupancy by not more than four families with coverage not exceeding 25% of the entire indebtedness; and

b. \$1.875 per \$1,000 of face amount of mortgage guaranty insurance in force at year end on residential buildings designed for occupancy by five

or more families with coverage not exceeding 20% of the indebtedness; and

c. \$2.50 per \$1,000 of face amount of mortgage guaranty insurance in force at year end on buildings occupied for industrial or commercial purposes with coverage not exceeding 20% of the entire indebtedness.

(c) If the coverage of residential mortgages on buildings designed for occupancy by not more than 4 families exceeds 25%, or if the coverage on residential mortgages on buildings designed for occupancy by 5 or more families exceeds 20% or if the mortgage guaranty coverage is not expressly provided for in this rule, the commissioner shall establish a rate formula factor that will produce a contingency reserve adequate for the risk assumed. The face amount of an insured mortgage shall be computed before any reduction by the insurer's election to limit its coverage to a portion of the entire indebtedness.

(d) The contingency reserve established by this subsection shall be maintained for 120 months. That portion of the contingency reserve established and maintained for more than 120 months shall be released and shall no longer constitute part of the contingency reserve.

(e) Subject to the approval of the commissioner, the contingency reserve shall be available to the extent necessary to make loss payments either when the incurred losses in a year exceed 35% of the earned premium in that year or when incurred losses in a year exceed 70% of the amount contributed to the contingency reserve, whichever is greater. Funds used in this manner shall be accounted for on a first-in-first-out basis as provided in subsection (12) (e).

(15) CHARGES, COMMISSIONS AND REBATES. (a) Every mortgage guaranty insurer shall adopt, print and make available a schedule of premium charges for mortgage guaranty insurance coverages. The schedule shall show the entire amount of premium charge for each type of mortgage guaranty insurance coverage issued by the insurer.

(b) A mortgage guaranty insurer shall not knowingly pay, either directly or indirectly to an owner, purchaser, mortgagee of the real property or any interest therein or to any person who is acting as agent, representative, attorney or employe of such owner, purchaser, or mortgagee any commission, remuneration, dividend or any part of its premium charges or any other consideration as an inducement for or as compensation on any mortgage guaranty insurance business.

(c) In connection with the placement of any insurance, a mortgage guaranty insurer shall not cause or permit any commission, fee, remuneration, or other compensation to be paid to, or received by: any insured lender; any subsidiary or affiliate of any insured; any officer, director or employe of any insured; any member of their immediate family; any corporation, partnership, trust, trade association in which any insured is a member, or other entity in which any insured or any such officer, director, or employe or any member of their immediate family has a financial interest; or any designee, trustee, nominee, or other agent or representative of any of the foregoing.

(d) A mortgage guaranty insurer shall not make any rebate of any portion of the premium charge shown by the schedule required by paragraph (a). A mortgage guaranty insurer shall not quote any premium charge to any person which is different than that currently available to

others for the same type of mortgage guaranty insurance coverage sold by the mortgage guaranty insurer. The amount by which any premium charge is less than that called for by the current schedule of premium charge is a rebate.

(e) A mortgage guaranty insurer shall not use compensating balances, special deposit accounts or engage in any practice which unduly delays its receipt of monies due or which involves the use of its financial resources for the benefit of any owner, mortgagee of the real property or any interest therein or any person who is acting as agent, representative, attorney or employe of such owner, purchaser or mortgagee as a means of circumventing any part of this rule. Except for commercial checking accounts and normal deposits in support of an active bank line of credit, any deposit account bearing interest at rates less than is currently being paid other depositors on similar deposits or any deposit in excess of amounts insured by an agency of the federal government shall be presumed to be an account in violation of this paragraph.

(f) A mortgage guaranty insurer shall make provision for prompt refund of any unearned premium in the event of termination of the insurance prior to its scheduled termination date. If the borrower paid or was charged for the premium, the refund shall be made to the borrower, or to the insured for the borrower's benefit, otherwise refund may be paid to the insured.

(g) This subsection is not intended to prohibit payment of appropriate policy dividends to borrowers.

(16) **TRANSITION.** Unearned premium reserves and contingency loss reserves shall be computed and maintained on risks insured after the effective date of this rule as required by subsections (13) and (14). Unearned premium reserves and contingency loss reserves on risks insured before the effective date of this rule may be computed and maintained either as required by subsection (13) and (14) or as required by Wis. Adm. Code section Ins 3.09 which was previously in effect and which was repealed on the effective date of this rule.

(17) **CONFLICT OF INTEREST.** (a) If a member of a holding company system as defined in Wis. Adm. Code section Ins 12.01 (3) (e), a mortgage guaranty insurer licensed to transact insurance in this state shall not, as a condition of its certificate of authority, knowingly underwrite mortgage guaranty insurance on mortgages originated by the holding company system or an affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly by the holding company system or affiliate.

(b) A mortgage guaranty insurer, the holding company system of which it is a part or any affiliate shall not as a condition of the mortgage guaranty insurer's certificate of authority, pay any commissions, remuneration, rebates or engage in activities proscribed in subsection (15).

(18) **LAWS OR REGULATIONS OF OTHER JURISDICTIONS.** Whenever the laws or regulations of another jurisdiction in which a mortgage guaranty insurer subject to the requirements of this rule is licensed, require a larger unearned premium reserve or a larger contingency reserve in the

aggregate than that set forth in this rule, the establishment and maintenance of the larger unearned premium reserve or contingency reserve shall be deemed to be compliance with this rule.

History: Cr. Register, March, 1957, No. 15, eff. 4-1-57; am. (2), (3), (4) and (5), Register, January, 1959, No. 37, eff. 2-1-59; am. (4) (c), Register, August, 1959, No. 44, eff. 9-1-59; cr. (4) (e), Register, January, 1961, No. 61, eff. 2-1-61; am. (2), Register, January, 1967, No. 133, eff. 2-1-67; am. (2), (3) (a) and (b), and (4) (a) and (b); r. and recr. (5), Register, December, 1970, No. 180, eff. 1-1-71. r. and recr. Register, March, 1975, No. 231, eff. 4-1-75; emerg. am. (1), (2) and (3) (a), eff. 6-22-76; am. (1), (2) and (3) (a), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), (2) and (3) (a), Register, March, 1979, No. 279, eff. 4-1-79.

Ins 3.11 Multiple peril insurance contracts. (1) PURPOSE AND SCOPE. (a) This rule implements and interprets section Ins 6.70 and chs. 625 and 631, Stats., by enumerating the minimum requirements for the writing of multiple peril insurance contracts. Nothing herein contained is intended to prohibit insurers or groups of insurers from justifying rates or premiums in the manner provided for by the rating laws.

(b) This rule shall apply to multiple peril insurance contracts permitted by section Ins 6.70, and which include a type or types of coverage or a kind or kinds of insurance subject to ch. 625, Stats.

(c) Types of coverage or kinds of insurance which are not subject to ch. 625, Stats., or to the filing requirement provisions thereof, may not be included in multiple peril insurance contracts otherwise subject to said sections unless such entire multiple peril insurance contract is filed as being subject to this rule and said sections and the filing requirements thereof.

(2) **DEFINITION.** Multiple peril insurance contracts are contracts combining 2 or more types of coverage or kinds of insurance included in any one or more than one paragraph of section Ins 6.75. Such contracts may be on the divisible or single (indivisible) rate or premium basis.

(3) **RATE MAKING.** (a) When underwriting experience is not available to support a filing, the information set forth in s. 625.12, Stats., may be furnished as supporting information.

(b) Premiums or rates may be modified for demonstrated, measurable, or anticipated variation from normal of the loss or expense experience resulting from the combination or types of coverage or kinds of insurance or other factors of the multiple peril insurance contract. Multiple peril contracts may be filed or revised on the basis of sufficient underwriting experience developed by the contract or such experience may be used in support of such filing.

(c) In the event that more than one rating organization cooperates in a single (indivisible) rate or premium multiple peril insurance filing, one of such cooperating rating organizations shall be designated as the sponsoring organization for such filing by each of the other cooperating rating organizations and evidence of such designation included with the filing.

(4) **STANDARD POLICY.** The requirements of section Ins 6.76 shall apply to any multiple peril insurance contract which includes insurance against loss or damage by fire.

History: Cr. Register, July, 1958, No. 31, eff. 8-1-58; am. (3) (a), Register, November, 1960, No. 59, eff. 12-1-60; emerg. am. (1), (2), (3) (a) and (4), eff. 6-22-76; am. (1), (2), (3) (a) and (4), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) (a) and (b), (2) and (4), Register, March, 1979, No. 279, eff. 4-1-79.

Ins 3.12 Membership fees and policy fees. (1) **PURPOSE.** This rule is intended to implement and interpret ch. 625, Stats., consistent with the purpose and scope of the applicable insurance statutes.

(2) **DEFINITION.** (a) Automobile coverage means the insurance against any loss, expense, and liability resulting from the ownership, maintenance, or use of any automobile or other vehicle except aircraft.

(b) Initial membership fee is the fee charged for any automobile coverage for membership in an insurance company at the time the policyholder first procures insurance from the insurance company.

(c) Policy fee is the fee charged for issuing an insurance policy.

(3) **ACCOUNTING.** Every initial membership fee, policy fee, or other similar charge for any automobile coverage shall be considered as additional premium for the first policy term subsequent to the collection or payment thereof:

(a) For all annual statement purposes, including all summaries, tabulations, schedules, and exhibits;

(b) For recording and reporting in accordance with the uniform classification of expense for fire, marine, and casualty and surety insurance:

(c) For tax purposes;

(d) And shall be subject to all statutory requirements for reserves and financial statements;

(e) And reasonable allocation consistent with the company's method of operation for renewal business shall be made to each coverage for which there is a premium charge contained in the policy.

(4) **INSURANCE RATES AND PREMIUM CHARGES.** (a) Every initial membership fee, policy fee, or other similar charge for any automobile coverage shall be considered as additional premium for the first policy term subsequent to the collection or payment thereof and: 1. Shall be reasonable, equitable, and consistent with the company's method of operation;

2. Shall not discriminate unfairly between risks or classes;

3. Reasonable allocation shall be made to each coverage in accordance with the statistical plans applicable for the specific coverages contained in the policy;

4. In event of cancellation within the first policy term, shall be subject to return to at least the same extent as premium;

5. The conditions applicable to such fees shall be stated in the policy.

(b) Each and every consideration for the policy, including initial membership fee, policy fee, or other similar charge, and the premium, must be stated in the policy.

(c) With respect to the same kind or class of automobile coverage, an insurer may operate only on a plan which is limited to the use of the conventional premium method or to the use of an initial membership fee or policy fee or other similar charge.

(d) No policy fee or other similar charge shall be charged for renewal or extension of an insurance policy by endorsement or certificate.

History: Cr. Register, February, 1958, No. 26, eff. 3-1-58; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 3.13 Individual accident and sickness insurance. (1) PURPOSE. This rule implements and interprets applicable statutes for the purpose of establishing procedures and requirements to expedite the review and approval of individual accident and sickness policies permitted by section Ins 6.75 (1) (c) or (2) (c), and franchise type accident and sickness policies permitted by s. 600.03 (3m) (d), Stats. The requirements in subsections (2), (3), (4), (5), and (6) are to be followed in substance, and wording other than that described may be used provided it is not less favorable to the insured or beneficiary.

(2) **POLICY PROVISIONS.** (a) If a policy is not to insure against sickness losses resulting from conditions in existence prior to the effective date of coverage, or in existence prior to a specified period after such effective date, the policy by its terms shall indicate that it covers sickness contracted and commencing (or beginning, or originating, or first manifested or words of similar import) after such effective date or after such specified period. Wording shall not be used that requires the cause of the condition or sickness, as distinguished from the condition or sickness itself, to originate after such effective date or such specified period. (Note: It is understood that "sickness" as used herein means the condition or disease from which the disability or loss results.) Subsection (2) (a) shall not apply to nor prohibit the exclusion from coverage of a disease or physical condition by name or specific description. (b) Where any "specified period" referred to in subsection (2) (a) exceeds 30 days, it shall apply to the occurrence of loss and not to the contracting or commencement of sickness after such period.

(c) A policy, other than a non-cancellable policy or a non-cancellable and guaranteed renewable policy or a guaranteed renewable policy, shall set forth the conditions under which the policy may be renewed, either by: *A brief description of the policy's renewal conditions, or a separate statement referring to the policy's renewal conditions, or a separate appropriately captioned renewal provision appearing on or commencing on the first page.*

1. The *brief description*, if used to meet the foregoing requirement, shall be printed, in type more prominent than that used in the policy's text, at the top or bottom of the policy's first page and on its filing back, if any, and shall describe its renewal conditions in one of the following ways: "Renewal Subject to Consent of Company", "Renewal Subject to Company Consent", "Renewal at Option of Company", "Renewal at Option of Company as Stated in _____" (refer to appropriate policy provision), or "Renewal May be Refused as Stated in _____" (refer to appropriate policy provision). A company may submit other wording, subject to approval by the commissioner, which it believes is equally clear or more definite as to subject matter.

2. The *separate statement*, if used to meet the foregoing requirement, shall be printed, in type more prominent than that used in the policy's text, at the top or bottom of the policy's first page and on its filing back, if any, and shall describe its renewal conditions in one of the following ways: "Renewal Subject to Consent of Company", "Renewal Subject to

(2) A group accident and sickness insurance policy may be issued to a creditor to insure debtors of the creditor if the class or classes of insured debtors meet the requirements of paragraphs (a) and (c) of s. 206.60 (2), Stats., [1973] and such a policy shall be subject to the requirements of such paragraphs in addition to other requirements applicable to group accident and sickness insurance policies.

History: Cr. Register, November, 1959, No. 47, eff. 12-1-59; am. Register, September, 1963, No. 93, eff. 10-1-63; r. (3), Register, February, 1973, No. 206, eff. 3-1-73; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 3.20 Substandard risk automobile physical damage insurance for financed vehicles. (1) **PURPOSE.** In accordance with s. 204.49 (4), Stats., this rule is to accomplish the purpose and enforce the provisions of ch. 625, Stats., in relation to automobile physical damage insurance for substandard risks.

(2) **SCOPE.** This rule applies to any automobile physical damage insurance policy procured or delivered by a finance company.

(3) **DEFINITIONS.** (a) *Substandard risk* means an applicant for insurance who presents a greater exposure to loss than that contemplated by commonly used rate classifications as evidenced by one or more of the following conditions:

1. Record of traffic accidents.
2. Record of traffic law violations.
3. Undesirable occupational circumstances.
4. Undesirable moral characteristics.

(b) *Substandard risk rate* means a rate or premium charge that reflects the greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk.

(4) **RATES FOR SUBSTANDARD RISKS.** (a) Any increased rate charged for substandard risks shall not be excessive, inadequate, or unfairly discriminatory.

(b) It shall be unfairly discriminatory to charge a rate or premium that does not reasonably measure the variation between risks and each risk's exposure to loss.

(c) Classification rates filed for substandard risks may not exceed 150% of the rate level generally in use for normal risks unless the filing also provides for the modification of classification rates in accordance with a schedule which establishes standards for measuring variation in hazards or expense provisions or both.

(5) **INSURANCE COVERAGE.** (a) The automobile physical damage insurance afforded shall be substantially that customarily in use for normal business.

(b) The applicant shall not be required to purchase more coverage than is customarily necessary to protect the interests of the mortgagee. The issuance of a policy shall not be made contingent on the acceptance by the applicant of unwanted or excessively broad coverages.

(c) Single interest coverage may be issued only when double interest coverage is not obtainable. The applicant must be given the opportunity

to procure his own insurance, and if he can procure same within 25 days there shall be no charge for the single interest coverage.

(6) **POLICY FORMS.** The purchaser must be furnished with a complete policy form clearly setting forth the nature and extent of all coverages and premiums charged therefor.

(7) **RATING STATEMENT.** No policy written on the basis of a sub-standard risk rate schedule shall be issued unless it contains a statement printed in bold-faced type, preferably in a contrasting color, reading substantially as follows: This policy has been rated in accordance with a special rating schedule filed with the commissioner of insurance providing for higher premium charges than those generally applicable for average risks. If the coverage or premium is not satisfactory, you may secure your own insurance.

History: Cr. Register, March, 1960, No. 51, eff. 4-1-60; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 3.21 "In the same industry", definition of. (1) The phrase "in the same industry", as used in s. 204.321 (1) (c), 1973 Stats., may be construed so that establishments engaged in one of the following activities may be considered as being in the same industry: (a) retail trade, (b) wholesale trade, (c) service, (d) mining, (e) contract construction, (f) finance, insurance and real estate, (g) transportation, communication and other public utilities, and (h) manufacturing.

(2) The principal activity of an establishment shall control its classification.

(3) An insurer may submit other classifications of establishments, subject to the approval of the commissioner, which it believes may properly be considered as engaging in activities which are "in the same industry".

Note: The above rule is an outgrowth of the hearings held by the department on December 17, 1963, to consider the formulation of rules and guide lines which insurance companies could use to determine what groupings of employers might be permitted by the phrase "in the same industry" in ss. 204.321 (1) (c) and 206.60 (4), Stats., to obtain group insurance coverage for their employees through the establishment of a trust. As a result of the hearing, the department has reviewed the background and history of the "in the same industry" provision which was adopted as a part of the "Group Life Insurance Definition" and "Group Life Insurance Standard Provisions", revised at New York on December 15, 1948, by the National Association of Insurance Commissioners and enacted as a part of the Wisconsin Statutes in 1949. The Department has concluded that the phrase "in the same industry" should be liberally construed. It provides a means whereby a small employer, not having a sufficient number of employees to qualify for a group plan of his own, may join with others and provide the benefits of group insurance to his employees and thereby compete in the labor market with the large employer. It has been emphasized to the department that the statutes involved are insurance statutes and that there is no underwriting reason which dictates greater detail or narrower classifications under the law. To require a more detailed breakdown only has the effect of adding to the administrative detail and expense of setting up such a plan, and such does not appear to be required nor in the public interest.

"The rule was amended May 1, 1975 so that it would apply to organizations engaged in manufacturing. This was accomplished by adding reference to manufacturing in subsection (1). This in effect removes the application of the advisory opinions of the Attorney General dated January 16, 1958 and December 30, 1958 on this subject."

For a general guide as to the types of organizations which fall within each of the groupings listed in subsection (1) of this rule, the department suggests that insurers refer to the division headings found in the "Standard Industrial Classification Manual" prepared by the United States Bureau of the Budget, Technical Committee on Industrial Classification, Office of Statistical Standards, 1957, and to other similar material such as the industrial classification starting on page XI of the "U.S. Census of Population 1960—Classified Index of Occupations and Industries," published by the United States Department of Commerce, Bureau of the Census, 1960; and Volume V, No. 1, "Wisconsin Commerce Reports," Bureau

of Business Research and Service, Madison, Wisconsin, April 1, 1957. All present tense statutory references herein are to 1973 Stats.

History: Cr. Register, February, 1964, No. 98, eff. 3-1-64; am. (1), Register, April, 1975, No. 232, eff. 5-1-75; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 3.22 Bail bond insurance. (1) **PURPOSE.** This rule is intended to implement and interpret applicable statutes including but not limited to section Ins 6.75 (2) (f), ss. 204.06, 204.11, 627.15, 632.14 and 632.17 and ch. 628, Stats., for the purpose of establishing minimum requirements for the transaction of bail bond insurance.

(2) **DEFINITIONS.** (a) *Commissioner* means the commissioner of insurance.

(b) *Insurer* means any domestic, foreign, or alien insurance company which has qualified to transact fidelity business under section Ins 6.75 (2) (f).

(c) *Bail bondsman* means an individual who shall be appointed by an insurer by power of attorney as its licensed agent under ch. 628, Stats., to execute or countersign bail bonds in connection with judicial proceedings and who receives or is promised money or other things of value therefor.

(4) **POWER OF ATTORNEY.** Every insurer engaged in the writing of bail bonds shall submit to and have approved by the commissioner a sample power of attorney which shall be the only form of power of attorney the insurer shall issue in this state.

(5) **BAIL BOND RATES.** (a) Bail bond rates and premiums are subject to the provisions of ch. 628, Stats. It is unlawful for any bail bondsman to execute a bail bond without charging the filed rate and premium therefor. No bail bondsman shall make any charge or collect or receive any fee, service fee, or consideration other than the premium based on rates and premiums as approved by the commissioner. Nothing in this rule shall prohibit collateral security or coindemnity agreements.

(b) The premium shall be a term charge for the term of the bond. No additional premium shall be charged in the event of a bind over except that if the amount of the bond has been increased a premium based on the approved rate for the amount of the increase may be charged.

(c) If the penal sum of the bond is reduced within 7 days after time of commitment by the original committing jurisdiction, the defendant shall be entitled to a refund of the premium in proportion to the amount of the reduction except that the minimum premium shall not be affected.

(d) The original premium charged and any additional or return premium required hereunder shall be shown or endorsed on the bond.

(6) **ISSUANCE OF BAIL BONDS.** No person shall execute or countersign bail bonds for a fee, or act in the capacity of a bail bondsman, or perform any of the functions, duties or powers prescribed for bail bondsmen, or collect any premium or fee under the provisions of this rule unless he is licensed as a bail bondsman under ch. 628, Stats.

History: Cr. Register, April, 1964, No. 100, eff. 6-1-64; r. (3) Register, December, 1967, No. 144, eff. 1-1-68; emerg. am. (1), (2) (b) and (c), (5) and (6), eff. 6-22-76; am. (1), (2) (b) and (c), (5) and (6), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2) (b), Register, March, 1979, No. 279, eff. 4-1-79.

Ins 3.23 Franchise accident and sickness insurance. (1) **FRANCHISE GROUP HEADQUARTERS.** A franchise group described in s. 600.03 (34m) (d), Stats., need not have its headquarters or other executive offices domiciled in Wisconsin.

(2) **ACCOUNTING.** All premiums paid in connection with franchise accident and sickness insurance on Wisconsin residents shall be reported for annual statement purposes as Wisconsin business and shall be subject to the applicable Wisconsin premium tax.

History: Cr. Register, May, 1964, No. 101, eff. 6-1-64; emerg. am. (1) eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 3.25 Credit life insurance and credit accident and sickness insurance. (1) **PURPOSE.** The purpose of this rule is to assist in the maintenance of a fair and equitable credit insurance market and to protect the interest of debtors and the public in this state by providing a system of rate, policy form, and operating standards for the transaction of credit life insurance and credit accident and sickness insurance. This rule interprets and implements, including but not limited to the following Wisconsin Statutes: ss. 623.06, 601.01 (3) (b) and (c), 601.42, 625.11, 625.12, 625.34, 631.20, 632.44 (3) and 632.60.

(2) **SCOPE.** (a) This rule shall apply to the transaction of credit life insurance defined in section Ins 6.75 (1) (a) 1. and 632.44, Stats., and to the transaction of credit accident and sickness insurance as defined in section Ins 6.75 (1) (c) 1. or (2) (c) 1.

(b) This rule shall be the basis for review of all policy forms, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders and the schedules of premium rates pertaining thereto submitted for filing after the effective date of this rule.

(c) This rule shall not apply to an individual or group life insurance policy or an individual or group accident and sickness insurance policy which insures only debtors whose indebtedness to a creditor is for a term in excess of 5 years.

(3) **FORMS OF CREDIT LIFE INSURANCE AND CREDIT ACCIDENT AND SICKNESS INSURANCE.** Credit life insurance and credit accident and sickness insurance shall be issued only in the following forms:

(a) Individual policies of life insurance issued to debtors on the non-renewable, nonconvertible term plan;

(b) Individual policies of accident and sickness insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;

(c) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;

(d) Group policies of accident and sickness insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

(4) (a) The amount of credit life insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in installments to the creditor. The amount of insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness.